

**Adequacy of a Forest
Development Plan for a
Woodlot Licence**

Complaint Investigation 990229

FPB/IRC/42

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The Investigation

The Board received a complaint about whether a forest development plan for a neighbouring woodlot licence met the requirements of the *Forest Practices Code of British Columbia Act* and its regulations (the Code). Although the woodlot consists of three non-contiguous parcels of land in the Prince George Forest District, the complaint concerns only the parcel beside the complainant's property, eight kilometres west of Prince George.

The Board does not have the authority to investigate many of the issues of concern to the complainant. In 1994, the Ministry of Forests (MOF) increased the maximum woodlot size from 400 to 600 hectares under the *Forest Act*. The complainant considered such expansion to be inappropriate, but the Board does not have the authority to investigate decisions made under the *Forest Act*.

The complainant also believed MOF should not have granted an expansion to the licensee because of previous trespasses on the complainant's property and on Crown land. The trespass on the complainant's property is not a Code matter and therefore was not considered by the investigation. The trespasses on Crown land occurred before the Code was enacted and before the woodlot licence was awarded, preventing the Board from investigating whether appropriate penalties were assessed or whether trespass areas are being properly managed.

Ultimately, the investigation examined only whether the 2000-2004 forest development plan met the requirements of the Code relating to a number of issues raised in the complaint:

1. Did the forest development plan comply with the Code's requirements for designating features and describing information?
2. Was it reasonable for the district manager to be satisfied that the forest development plan adequately manages and conserves forest resources?
3. Does the forest development plan comply with the Code's requirements for protecting forest resources from fire?
4. Was there an adequate opportunity for public review and comment?

Investigation Findings

Did the forest development plan comply with the Code's requirements for designating features and describing information?

A forest development plan provides the public and government agencies with information about the location of proposed roads and cutblocks for harvesting timber, over a period of at least five years. Planning issues are identified and considered through a forest development

plan prior to the preparation of detailed stand-level planning through a silviculture prescription or site plan.

The complainant said the forest development plan fails to identify features and describe information as required by the Code. Specific concerns include: the *Prince George Land and Resource Management Plan*; private property boundaries and structures; a major culvert; roads; old survey markers; stream class and riparian management area; and agriculture land reserves and agriculture assessments. The concerns about agriculture land reserves and agriculture assessments were not investigated, as they are not regulated under the Code.

Many of the requirements for the remaining issues are in the *Woodlot Licence Forest Management Regulation* (the woodlot regulation). The woodlot regulation came into effect on November 30, 1998, combining and simplifying many of the regulations that previously applied to woodlots.

The land and resource management plan

The complainant said the forest development plan does not reference the *Prince George Land and Resource Management Plan* (LRMP) or describe how it will achieve the LRMP's management objectives and strategies.

Section 10(1)(d) of the *Forest Practices Code of British Columbia Act* (the Act) requires a forest development plan to be consistent with any higher level plan. However, the ministers did not endorse the LRMP as a higher level plan under the Code. The forest development plan was therefore not required to be consistent with the LRMP or describe measures to achieve higher level plan objectives.

Finding #1

The *Prince George Land and Resource Management Plan* is not a higher level plan under the Code. The forest development plan therefore was not required to be consistent with the LRMP or to describe measures proposed to achieve higher level plan objectives.

The LRMP does provide policy guidance for resource management over the broad land base. Therefore, the district manager should have considered the strategies and objectives of the LRMP in assessing whether a forest development plan adequately manages and conserves forest resources. The report explores the LRMP in further detail in the section, "Was it reasonable for the district manager to be satisfied that the forest development plan adequately manages and conserves forest resources?"

Private property boundaries and structures

The complainant is concerned about risk of future trespasses, or harvesting adversely affecting his buildings (including a cabin situated near the woodlot boundary) because the forest development plan did not show the location of his property boundaries and buildings.

Section 11(3)(m) of the woodlot regulation requires that a licensee describe in a forest development plan the location of private property made "known" by the district manager (or identified in a higher level plan). The district manager did not make the location of the complainant's property boundaries or buildings known to the licensee. The Board considers

that the absence of these features did not prevent public or agencies from effectively reviewing the forest development plan. In any event, the licensee did show the location of the cabin and the general location of the complainant's property in the forest development plan. The forest development plan also shows the boundaries of the woodlot. That shows all boundaries common with the complainant's property. The complainant's other property boundaries have no bearing on the management of the woodlot.

Finding #2

The licensee was not required to show the location of the complainant's property or buildings in the forest development plan. The forest development plan nevertheless shows all boundaries common with the complainant's property, as well as the location of the complainant's cabin.

Major culvert

The complainant is concerned that the forest development plan does not show the location of a major culvert for an existing road. The Code includes many provisions to ensure proper construction, placement and maintenance of culverts. However, those requirements apply to road permits, not forest development plans. With two minor exceptions that did not apply in these circumstances, the Code does not require that forest development plans show the location of major culverts. Forest development plans must only show culverts where new culverts are proposed or where existing culverts are undergoing maintenance. Neither situation applies to the culvert in question.

Finding #3

The licensee was not required to identify the location of the existing major culvert in its forest development plan.

Roads

The complainant has three specific concerns regarding the completeness and accuracy of the roads designated in the forest development plan. The complainant's first concern is that the plan does not show a section of existing road that leads to an existing cutblock within the woodlot licence. The Board confirmed that the plan does not show a section of that road. However, section 19 (1.2) of the Act requires a licensee to include the location of a road in a forest development plan only if:

- ⓐ the road is an existing forest service road that the licensee uses;
- ⓑ the licensee is responsible for the road under a road permit; or
- ⓒ the licensee is responsible for the road under a cutting permit issued before June 15, 1995.

None of these criteria apply to the section of road in question.

Finding #4

The licensee was not required to designate the location of the existing road leading to the old cutblock in its forest development plan.

The complainant's second concern about roads was that the forest development plan does not show a road proposed by other nearby property holders which would go through the woodlot. Those property holders are currently using a road through the complainant's property to reach their land, but the complainant has indicated that he may restrict that access.

Section 11(3)(k) of the woodlot regulation requires that a licensee describe the location of roads proposed by others in a forest development plan only if those roads have been made "known" by the district manager (or identified in a higher level plan). The district manager did not make the proposed road "known." In any event, the proposed road would not affect any of the cutblocks or roads proposed in the forest development plan or impair the public's ability to undertake a meaningful review of the plan.

Finding #5

The licensee was not required to show the location of the road proposed by nearby property holders in its forest development plan.

The complainant's third road concern was about the accuracy of a road location. He said that the forest development plan incorrectly maps a section of the existing Moldowan forest service road, showing it too far to the north-east. The forest development plan shows two different locations for a 400-metre section of the road. The north-east location, which MOF and the licensee believe to be correct, is based on MOF's digital files. The south-east location is based on the complainant's knowledge of the area and was added by the licensee to address the complainant's concerns.

In any event, section 19(1.2)(a)(ii) of the woodlot regulation requires only that a forest development plan identify the approximate, not exact, location of existing forest service roads, and only those that the licensee uses to provide access to cutblocks. The alternative road locations shown do not affect the management of forest resources of the woodlot, or the ability of the public or review agencies to undertake a meaningful review of the plan. Regardless of which road location is correct, both meet the requirement to show the approximate road location.

Finding #6

The forest development plan meets the Code's requirement to show the approximate location of forest service roads.

Old survey markers

The complainant is concerned that the forest development plan does not identify the location of old survey markers blazed into trees located on the woodlot. The complainant believes that these markers have historical significance and should be preserved.

The Code's section 11(3)(n) requires a holder of a woodlot licence to identify and describe "cultural heritage resources" in a forest development plan. Such resources include objects, sites or locations of a traditional societal practice that is of historical, cultural or archaeological significance. While the old survey markers may have some historical significance, they are not related to a traditional societal practice. There is no requirement under the Code to identify their location in a forest development plan.

Finding #7

There is no requirement under the Code for a licensee to identify the location of old survey markers in a forest development plan.

Stream class and riparian management area

The complainant stated that the forest development plan fails to classify a tributary to Wright Creek or to provide an adequate riparian management area for that stream as required by the Code.

Stream classifications determine the width of the riparian management area required along the stream. The Code can require a woodlot licensee to include stream classification in its forest development plan in three situations.

Under section 12 of the woodlot regulation, a licensee must identify the riparian classification of a stream if all of three conditions exists. One condition is that the stream be in a part of a forest development plan requiring joint approval by the district manager and the designated environment official. That is not the case for the Wright Creek tributary, so there was no requirement to identify the class of stream in the forest development plan.

Section 11 of the woodlot regulation requires a licensee ensure that a forest development plan identifies and describes the riparian class of streams made "known" by the district manager (or otherwise identified in a higher level plan). The district manager did not make the classification of the Wright Creek tributary known, so there was no requirement under section 11.

Section 14 of the woodlot regulation gives a licensee the choice of identifying the riparian class of streams in either a forest development plan or a site plan. In this case, the licensee has chosen to identify the stream class in the site plan, meeting the requirements of section 14.

Finding #8

The licensee was not required to show the riparian class of the stream in the forest development plan.

Was it reasonable for the district manager to be satisfied that the forest development plan adequately manages and conserves forest resources?

The complainant stated that the forest development plan does not adequately manage a creek, visual quality, plants, berries, mushrooms and wildlife.

Under section 41 of the Act, a district manager may only approve an operational plan if satisfied that the plan will "adequately manage and conserve" forest resources. The district manager stated that he was satisfied for the purposes of addressing section 41. The Board considered whether it was reasonable to be satisfied that the forest development plan adequately manages and conserves the resources of concern to the complainant, based on the information that was available.

The creek

The complainant said that the forest development plan does not adequately address a study done on Wright Creek. However, no concerns regarding the management of the creek were identified during the public viewing of the forest development plan. Staff from the Ministry of Environment, Lands and Parks (MELP) did not identify any concerns regarding management of the creek. However, neither MELP or MOF staff, nor the licensee were aware of *Wright Creek Tributaries Stream Inventories* (MELP 1990).

The Board considered whether the failure to consider the study adversely affected the management of the creek. The study established that Wright Creek is a fish-bearing stream, but does not provide any management recommendations. Consequently, it does not provide any information that could have been considered in the forest development plan other than establishing the presence of fish. Because the *Fish Stream Identification Guidebook* requires that streams like Wright Creek, with a slope of less than 20 percent, are assumed to have fish, the failure to consider the Wright Creek study had no effect on the management of the creek.

Finding #9

Although an available fish inventory report was not considered in approving the forest development plan for the woodlot, it would have provided no additional management information. It was therefore reasonable for the district manager to be satisfied that the forest development plan adequately manages and conserves the creek.

Visual quality

The complainant is concerned that harvesting approved in the forest development plan will be visible from his cabin. He is also concerned that one approved cutblock, which allows for harvesting to the edge of the Moldowan forest service road, will degrade visual quality for people using the road.

There are no formal visual quality objectives or strategies for the area of the forest development plan. Visual sensitivity rating maps do not identify any potential concerns for that area. In addition, the complainant did not express any concerns regarding visual impact on his cabin

prior to approval of the plan. It was reasonable for the district manager to be satisfied that the forest development adequately manages and conserves visual quality.

Finding #10

There was no information suggesting that visual quality for the area of the forest development plan required special management consideration. It was therefore reasonable for the district manager to be satisfied that the forest development plan adequately manages and conserves visual quality.

Plants, berries and mushrooms

The complainant said that the forest development plan does not adequately manage for plants, berries and mushrooms that grow in the area and are used by residents.

There are no formal management objectives for plants, berries or mushrooms for the area of the licence. No one, including the complainant, raised any concerns regarding those resources during the public review of the forest development plan. It was therefore reasonable for the district manager to be satisfied that the plan would adequately manage and conserve plants, berries and mushrooms.

Finding #11

There was no information suggesting that plants, berries or mushrooms require special management consideration for the area of the forest development plan. It was therefore reasonable for the district manager to be satisfied that the plan adequately manages and conserves those forest resources.

Wildlife

The complainant is concerned that the forest development plan does not recognize use of the area by grizzly bears, deer and moose. He said the plan does not recognize a nearby den or a grizzly bear study being done by MELP.

The Code provides a number of management requirements for areas designated as ungulate winter ranges and wildlife habitat areas. However, no such winter ranges or habitat areas have been designated for the area of the forest development plan. The LRMP includes strategies for identifying and designating moose and deer habitat, mimicking natural patterns of connectivity for moose, and managing critical Douglas fir stands for mule deer winter range. However, there is no information suggesting that the area of the woodlot has special value for either deer or moose habitat. MELP did not identify any specific wildlife concerns during its review of the forest development plan and the complainant and other members of the public did not raise wildlife concerns prior to the approval of the forest development plan. It was therefore reasonable for the district manager to be satisfied that the plan would adequately manage and conserve moose and deer.

In regard to grizzly bears, the Board determined that the study referred to, *Parsnip Grizzly Bear Population and Habitat Inventory Project, a Progress Report for 1998*, does not apply to the area of the woodlot. The study area is far to the east of the woodlot.

Finding #12

There was no information to suggest that the area of the forest development plan has special values for moose, deer or bear. It was therefore reasonable for the district manager to conclude that the forest development plan adequately manages and conserves wildlife.

Does the forest development plan comply with the Code's requirements for protecting forest resources from fire?

The complainant is concerned that the forest development plan does not adequately address a risk from fire, given recent lightning fires in the vicinity. The complainant said that piles of slash from previous harvesting operations are increasing the fire hazard for the woodlot and surrounding area. He believes fire management provisions in the forest development plan and the management and working plan are either absent or too vague to be effective, and should specify people and equipment available to fight fires.

The investigation did not assess whether the management and working plans adequately address fire prevention. That plan falls under the *Forest Act*, which is not within the Board's jurisdiction to investigate. However, fire prevention is an important matter under the Code. The *Forest Fire Prevention and Suppression Regulation* requires the licensee to complete a fire preparedness plan under certain conditions. The fire preparedness plan must include the number of people and the type of equipment available. However, such plans are to be prepared before industrial activity occurs, and are separate from forest development plans. In any event, recent assessments indicate that the slash piles on the woodlot have deteriorated to a point where they are no longer a hazard and would be difficult to ignite. There are no extraordinary fire risks that the licensee had to address in its forest development plan.

Finding #13

There are no extraordinary fire risks that the licensee was required to address in its forest development plan.

Was there an adequate opportunity for public review and comment?

The complainant attempted to view the forest development plan during the review period, but the plan was not available at the licensee's office at the time he went there. Later, the licensee left messages for the complainant to arrange a viewing time, but was unable to reach the complainant. Eventually, the review period passed without the complainant reviewing the plan. To avoid similar occurrences in the future, he would like to have all future operational plans referred to him directly.

The Code's provisions for public review and comment are important for ensuring that the public has a say in the management of forest resources on Crown land. The public can comment on forest development plans for woodlot licences only once every five years.

The holder of a woodlot licence must allow the public to review and comment on a forest development plan for at least 30 days. The district manager can require a longer review period if that is required to provide an adequate opportunity for review. The district manager can also require the licensee to refer a plan to persons or other agencies.

In the circumstances of this complaint, the district manager required the licensee to readvertise the plan and make it available for an additional 30-day review period after the first period expired. The district manager also required that the licensee refer the re-advertised plan directly to the complainant. The complainant eventually had an adequate opportunity to review the plan.

Finding #14

The complainant had an adequate opportunity to review the forest development plan.

Conclusions

The forest development plan meets all of the Code's requirements for designating and describing features. It was reasonable for the district manager to be satisfied that the forest development plan adequately managed and conserved forest resources.

There are no extraordinary fire risks that the licensee was required to address in its forest development plan.

The complainant had an adequate opportunity to review the forest development plan. The complaint was not substantiated.

Location of Complaint



